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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,680	10/17/2003	Alfonso Losada	SST/1306	9353

498 7590 05/04/2006

JAMES R. CYPHER  
405 14TH STREET  
SUITE 1607  
OAKLAND, CA 94612

EXAMINER

CHUKWURAH, NATHANIEL C

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

10/687,680

**Applicant(s)**

LOSADA, ALFONSO

**Examiner**

Nathaniel C. Chukwurah

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 1-24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28 and 29 is/are allowed.
- 6) ☒ Claim(s) 25-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/20/2006</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/20/2006 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

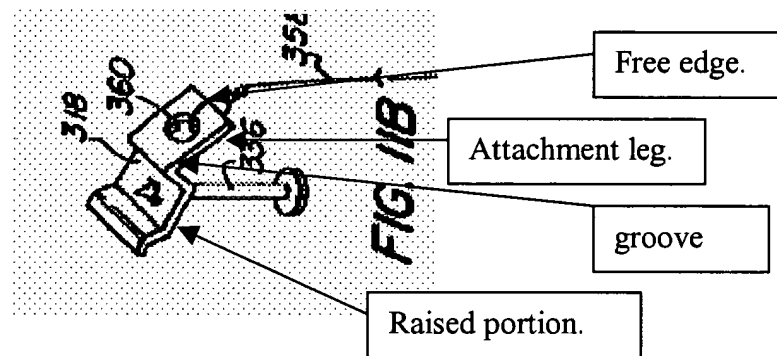
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Losada (6,273,316).

With regard to claim 25, the reference of Losada discloses a fastener assembly feeding system (Fig. 11A) for use with a power actuated gun (10) comprising: a fastener assembly (318, 336) comprising a curved plate (318), the plate having a raised portion (see Fig. below) and a stud (336) frictionally held within the plate (318) at the raised portion, the curved plate (318) further having an attachment leg (see Fig. below) angularly attached to the curved plate (318), the attachment leg having a free edge (see Fig. below) away from where the attachment leg is

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attached to the curved plate (318); a track (316) adapted to receive the curved plate (318), the track (316) shaped to conformed with the curved shape of the plate and to closely receive substantially all the curved plate (318) on both sides of the raised portion as shown in Figure 11A, except at the raised portion of the plate where the stud is held within the plate, the track (316) also being shaped to closely receive the plate (318) where the plate joins with the attachment leg (see Fig. 11B), but not shaped to closely receive the plate at the free edge of the attachment leg as shown in Figure 11A; wherein a plurality of fastener (318) assemblies are guided along the track (316).



With regard to claim 26, the fastener assembly of Losada further includes a groove formed on the plate (see Fig. below) and track (316) shaped to conform with the groove of the plate (318).

With regard to claim 27, the fastener assembly feeding system of Losada includes the curved plate (318) formed with an extending portion (see Fig. 11B) and the track (316) is shaped to conform with the extending portion of the plate (see portion of track 317).

***Allowable Subject Matter***

Claims 28 and 29 are allowed over prior art of record.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to disclose a fastener assembly having a plate, the plate having a raised portion and the raised portion of the plate having a groove formed within the plate.

***Response to Arguments***

Applicant's arguments filed 3/20/2006 have been fully considered but they are not persuasive.

With respect to claims 25, applicant argues that Losada '316 track (316) does not accommodate a "curved shape" which conform with curved shape of the plate as called for in claim 25.

The Examiner contends that the track (316) is clearly shaped to accommodate the curved plate (318). Therefore the disclosure of Losada meets the claim 25 as rejected above.

With respect to claim 26, applicant argues that the curved plate has a "raised portion", such that the "groove" of claim 26 must be considered a different element.

The Examiner contends that the claim called for a groove, and the track is shaped to conform with the groove of the plate. The claim is clearly met by Losada disclosure.

With respect to claim 27, applicant argues that the curved plate has an "attachment leg" such that the "extending portion" of claim 27 must be considered a different element.

The Examiner contends that the claim called for an extending portion, and the track is shaped to conform with the extending portion. The claim is clearly met by Losada disclosure.

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***Conclusion***

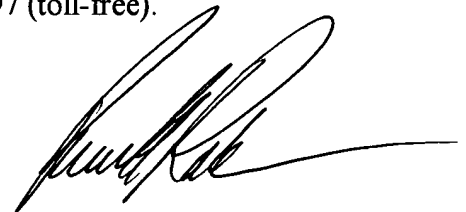
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathaniel C. Chukwurah whose telephone number is (571) 272-4457. The examiner can normally be reached on M-F 6:00AM-2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NC

April 21, 2006.

A handwritten signature in black ink, appearing to read 'Rinaldi Rada', with a long horizontal flourish extending to the right.

Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700